

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLES E. MAY, JR.,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 22-CV-5007
	:	
GEORGE W. HILL CORRECTIONAL	:	
FACILITY, <i>et al.</i>,	:	
Defendants.	:	

ORDER

AND NOW, this 14th day of August, 2023, upon consideration of Plaintiff Charles E. May, Jr.'s Amended Complaint (ECF No. 6), and his Motion to Proceed *In Forma Pauperis* (ECF No. 7) it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to amend the spelling of Defendant Gant's last name on the docket to reflect "Sgt. Gant" not "Sgt. Grant."

2. For the reasons stated in the accompanying Memorandum Opinion, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii):

a. All claims asserted against Defendants GWHCF, Jenkins, McDevitt, and Royales are **DISMISSED** for failure to state a claim. The Clerk of Court is **DIRECTED** to **TERMINATE** George W. Hill Correctional Facility, Jenkins, McDevitt and Royales as defendants in this case.

b. All claims against Defendant Gant are **DISMISSED WITH PREJUDICE** for failure to state a claim except for May's excessive force claim against Defendant Gant in his individual capacity. May may proceed at this time on this excessive force claim.

3. The Clerk of Court shall issue a summons for Defendant Gant. Service of the summons and the Amended Complaint, along with a copy of this Order and accompanying Memorandum, shall be made upon Defendant Gant by the U.S. Marshals Service. May will be required to complete a USM-285 form so that the Marshals can serve Defendant Gant. Failure to complete that form may result in dismissal of this case.

4. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)”

5. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and Local Rules are to be followed. May is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal.

6. May is specifically directed to comply with Local Rule 26.1(f) which provides that “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the

parties, after reasonable effort, are unable to resolve the dispute.” May shall attempt to resolve any discovery disputes by contacting Defendant’s counsel directly by telephone or through correspondence.

7. No direct communication is to take place with the United States District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk of Court.

8. In the event a summons is returned unexecuted, it is May’s responsibility to ask the Clerk of Court to issue an alias summons and to provide the Clerk with the Defendant’s correct address, so service can be made.

9. The parties should notify the Clerk’s Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties’ legal rights.

10. May’s April 19, 2023 Motion to Proceed *In Forma Pauperis* (ECF No. 7) is **DENIED** as moot because May has already been granted leave to proceed *in forma pauperis* in this matter.

BY THE COURT:

/s/ Mitchell S. Goldberg
MITCHELL S. GOLDBERG, J.